



Weekly Summary of Cases

National Labor Relations Board

Week of August 23-27, 2010, W-3275

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Because of the large volume of Board Decisions issued this week, several summaries could not be prepared in time for this edition and will be included in next week's Summary. We apologize for any inconvenience. Links to all Board decisions are posted on the www.nlrb.gov website [here](#).

Summarized Board Decisions

American Girl Place, Inc. (2-CA-37791, 355 NLRB No. 84) New York, NY, August 13, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board found that the Respondent violated the Act by suspending consideration of a wage increase for its employees, informing its employees that they would not receive a pay increase because of their support for the Union, and threatening its employees with more onerous working conditions if they selected the Union as their bargaining representative. The Board modified the administrative law judge's recommended remedy for the Respondent's unlawful suspension of its consideration of a wage increase, placing the burden on the Respondent to show in compliance that it would not have approved the wage increase that was on the verge of approval when the violation occurred. The remedy provides for backpay in the amount of the recommended increase, unless the Respondent shows in compliance that it would have granted a wage increase of a different amount or no increase at all.

Charge was filed by Actors' Equity Association. Administrative Law Judge Steven Davis issued his decision on August 10, 2007. Chairman Liebman and Members Schaumber and Becker participated.

Faurecia Exhaust Systems (8-CA-37192, et al.; 355 NLRB No. 124) Toledo, OH, August 26, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board affirmed the administrative law judge's finding that the employer violated the Act by warning and suspending an employee because he asked coworkers to obtain for him the names, addresses, and telephone numbers of unit employees for use in a union organizing campaign. The employer defended by arguing that the employee's conduct was not protected by the Act, because he sought to obtain the contact information by surreptitious means, in violation of several employee handbook rules prohibiting the harassment of employees and the disclosure of confidential information. In agreement with the judge, the Board rejected this defense, stating that because the employee "merely requested, and did not surreptitiously take, the contact

information of unit employees,” his conduct was protected. Even assuming that the employee’s request for the contact information was unprotected, the Board agreed with the judge that the discipline was still unlawful because the employer’s “asserted reliance on that request as the basis for [the discipline] was a pretext.”

Charges filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, Region 2-B. Administrative Law Judge Ira Sandron issued his supplemental decision October 30, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

J. Picini Flooring (28-CA-21229, et al.; 355 NLRB No. 123) Las Vegas, NV, August 26, 2010. [[HTML](#)] [[PDF](#)] (***J & R Flooring, Inc. d/b/a J. Picini Flooring and Freeman’s Carpet Service, Inc. and FCS Flooring, Inc. and Flooring Solutions of Nevada, Inc., d/b/a FSI***)

The Board found that construction industry employers J. Picini Flooring, Freeman’s Carpet Service, Inc., and FCS Flooring, Inc. did not violate the Act by refusing to grant recognition to the union based on card checks conducted pursuant to a voluntary recognition clause in their multi-employer collective-bargaining agreement with the union, executed under the Act. However, the Board found that a fourth employer, FSI, did violate the Act by refusing to grant recognition to the union. The Board found that, in contrast to the other employers, FSI’s conduct was motivate by bad faith, rather than by a bona fide dispute over the correct interpretation of the “third-party card check” language in the voluntary recognition clause in its collective-bargaining agreement.

The Board severed, for determination at a later date, the issue of whether the Board’s remedial notice should be posted electronically.

Charges filed by International Union of Painters and Allied Trades, District Council 15. Administrative Law Judge Lana H. Parke issued her decision September 5, 2007. Chairman Liebman and Members Schaumber and Pearce participated.

Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

Akal Security, Inc. (19-CA-30891, et al.; 355 NLRB No. 106) Boise and Coeur d’Alene, ID, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board reversed the administrative law judge’s finding that the Respondent, which contracts with the United States Marshal Service to provide security at federal courthouses, unlawfully discharged two court security officers because of their protected concerted activity. Without supervisory permission, the officers convened a 30-minute meeting during working time to confront a colleague about his perceived performance problems. After learning about the meeting and conducting an investigation, the Respondent recommended that the officers be suspended, but ultimately terminated them when the Marshal Service insisted that they be removed from working under its contract with the Respondent.

The Board found that the discharges were not unlawful. The Board noted that the Respondent's investigative report found that the officers had created a security risk by convening a meeting in the courthouse's control room during operational hours, from which point they could not fully and effectively monitor the courthouse. Applying *NLRB v. Burnup & Sims*, 379 U.S. 21 (1964), the Board found that the Respondent therefore had a good-faith belief that the officers had engaged in misconduct, and the General Counsel failed to prove that this misconduct did not occur.

Charges filed by United Government Security Officers of America, Local 118. Administrative Law Judge Lana H. Parke issued her decision September 23, 2008. Chairman Liebman and Members Schaumber and Becker participated.

Bentonite Performance Minerals, LLC, a Product and Service Line of Halliburton Energy Services, Inc. (27-CA-20596, et al.; 355 NLRB No. 104) Colony, WY, August 23, 2010.

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The Board affirmed the administrative law judge's findings that the Respondent violated the Act by: (1) interrogating employees; (2) soliciting employees to sign and circulate decertification petitions; (3) proposing the idea of decertification petitions; (4) impliedly and actually promising employees improved wages and benefits if they repudiated the Union; and (5) discouraging employees from attending a Union meeting. The Board additionally affirmed that the Respondent violated the Act by: (1) withdrawing recognition from the Union based on the decertification petitions; (2) failing and refusing to provide the Union with information requested on two separate occasions; and (3) unilaterally changing terms and conditions of employment immediately following its withdrawal of recognition. Finally, the Board modified the judge's recommended remedy to include the Board's traditional make-whole language for any losses of benefits resulting from the Respondent's unilateral changes, and found, contrary to the judge, that the circumstances of the case did not warrant a broad cease-and-desist order.

Charges filed by Chemical Workers Council/Food and Commercial Workers Local 353C. Administrative Law Judge James M. Kennedy issued his decision June 2, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

Bristol Hospital EMS, LLC (34-CA-12481; 34-RC-2313; 355 NLRB No. 120) Bristol, CT, August 23, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board adopted the Regional Director's recommendation to overrule, without a hearing, the Employer's objections that the election should be set aside because (1) the Union conducted election speeches and/or question and answer sessions on company time, beginning 24 hours before the election and through the election and (2) Union agents and supporters created an atmosphere of fear and coercion by threats, harassment, and intimidation and engaged in inflammatory appeals to bias. The Board adopted the Regional Director's findings and recommendations, and found that a certification of representative should be issued.

Charges filed by International Association of EMTs and Paramedics SEIU/NAGE. Chairman Liebman and Members Schaumber and Hayes participated.

Corrections Corp. of America (26-CA-23180; 355 NLRB No. 110) Tutwiler, MS, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board reversed the administrative law judge's determination that the employer unlawfully discharged a nurse in its medical department because of her decision to present employee complaints to management. The Board found that the employer established that it would have discharged her for legitimate reasons even in the absence of her pursuit of employee complaints. The employer operates a correctional facility in Tutwiler, Mississippi. The nurse had been the subject of employee complaints beginning in 2007, during her first year. Following the investigation of an inmate's death in April 2008, the employer was warned that it needed to correct deficiencies and increase staffing, particularly of registered nurses (RNs). In the following months, multiple RNs complained about the employee's abusive behavior and two resigned, citing that reason. The Board found that while the employer may have tolerated the nurse's conduct in 2007, it could no longer do so in 2008, after it became clear that her repeated pattern of abusive behavior threatened the employer's ability to attract and retain qualified RNs.

Charge filed by an Individual. Administrative Law Judge William N. Cates issued his decision March 27, 2009. Chairman Liebman and Members Schaumber and Becker participated.

Kentucky River Medical Center (9-CA-37734, et al.; 355 NLRB No. 114) Jackson, KY, August 24, 2010. [[HTML](#)] [[PDF](#)] (***Jackson Hospital Corporation d/b/a Kentucky River Medical Center***)

The Board affirmed, with some rationale modifications, the administrative law judge's findings regarding discriminatee eligibility for reinstatement and backpay. The Board found that the Respondent, which bore the burden of proof, did not prove its claims that it would have lawfully fired discriminatee, had it still employed her, because of her post-termination felony drug conviction or because of her later extended medical leave. The Board also relied on the judge's implicit credibility determinations and agreed that her decision to quit working for an interim employer did not disqualify her from subsequent backpay. Finally, the Board summarily resolved various procedural and credibility-based issues.

Charges were filed by United Steelworkers of America and an Individual. Administrative Law Judge Michael A. Rosas issued his decision February 26, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

Laurel Baye Healthcare of Lake Lanier, LLC (10-CA-35958, 35983; 355 NLRB No.118) Buford, GA, August 24, 2010. [[HTML](#)] [[PDF](#)]

The Board unanimously adopted the administrative law judge's findings that the employer, which is engaged in the business of providing skilled care nursing services, violated the Act by making unilateral changes to employee dress code, vacation and sick leave pay, and health insurance benefits. The employer made these unilateral changes after a representation election in a bargaining unit of its service and maintenance employees, but before the Board certified the Union as the employees' representative. The employer acknowledged that it acted unilaterally. The Board found wanting the employer's defenses that its unilateral conduct was privileged by

compelling economic considerations, and that the changes were de minimis. The Board also rejected the employer's defense that it had no duty to bargain over its changes to its health insurance benefits because it was acting pursuant to an annual review of those benefits. The Board found that the Respondent waived this argument by failing to raise it before the administrative law judge.

Charges filed by United Food and Commercial Workers Union, Local 1996. Administrative Law Judge Lawrence W. Cullen issued his decision July 12, 2006. Chairman Liebman and Members Schaumber and Becker participated.

Local 324, International Union of Operating Engineers, AFL-CIO (Hydro Excavating, LLC) (7-CB-15343; 355 NLRB No. 125) Marina City, MI, August 25, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's finding that the Respondent did not violate the Act by expelling Charging Party from membership. Contrary to the judge, however, the Board also found that the Respondent did not violate the Act by expelling him from membership and dismissed the complaint. In dismissing the allegation, the Board concluded that the Charging Party was not a representative at the time of the expulsion.

Charge filed by an Individual. Administrative Law Judge Michael A. Marcionese issued his decision February 12, 2008. Chairman Liebman and Members Schaumber and Becker participated.

Los Angeles Airport Hilton Hotel and Towers (The) (31-CA-27837, et al.; 355 NLRB No. 122) Los Angeles, CA, August 24, 2010. [[HTML](#)] [[PDF](#)] (***Fortuna Enterprises LP, a Delaware limited partnership d/b/a The Los Angeles Airport Hilton Hotel and Towers***)

The Board affirmed the administrative law judge's findings in his original decision that the Respondent violated the Act by issuing written warnings to five employees for being in an unauthorized area and committed multiple violations, including suspending 77 employees for a two-hour work stoppage in the employee cafeteria. However, because the judge inadequately explained his finding that a supervisor violated the Act by pushing three employees and by pushing his finger into a fourth employee's chest, the Board severed and remanded that issue to the judge.

In his supplemental decision, the judge again found that the supervisor's conduct was unlawful. In affirming the judge's finding, the Board found that the supervisor unlawfully pushed one employee and found it unnecessary to pass on whether the other employees had been pushed.

Charges were filed by UNITE HERE Local 11. Administrative Law Judge John J. McCarrick issued his decision October 21, 2008 and his supplemental decision July 22, 2009. Chairman Liebman and Members Schaumber and Hayes participated.

Loyalhanna Health Care Associates d/b/a Loyalhanna Care Center, a Pennsylvania Limited Partnership (6-CA-28609, et al.; 355 NLRB No. 102) Latrobe, PA, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's finding that the Charging Party nurse managers were not statutory supervisors because the Respondent failed to demonstrate that the nurses exercised independent judgment while assigning or responsibly directing other employees. Accordingly, the Board also adopted the judge's conclusion that the Respondent violated the Act by threatening, disciplining, and discharging the nurse managers because they engaged in protected concerted activities. The decision contains a personal footnote by Member Hayes, stating that, although he does not agree with extant precedent holding that an employee's service as the highest-ranking employee present on duty in a workplace is insufficient by itself to demonstrate supervisory status, he applies extant precedent in this case for institutional purposes.

Charges were filed by Individuals. Administrative Law Judge Arthur J. Amchan issued his decision April 16, 2007. Chairman Liebman and Members Schaumber and Hayes participated.

McElroy Coal Company (6-CA-35806, 355 NLRB No.121) Glen Easton, WV, August 25, 2010. [[HTML](#)] [[PDF](#)]

The Board found that McElroy Coal Company violated the Act by threatening an employee with having his truck towed for bearing signs thereon reading "We Don't Want Scabs." These signs, which arose from an ongoing dispute over the employer's use of subcontractors to perform unit work, constitute protected union activity. The Board ordered the employer to cease and desist from its unlawful activity and post a notice to employees. (The Board rejected the employer's argument that the employee's use of the word "scabs" on the signs removed his conduct from the Act's protection.)

Charge filed by United Mine Workers of America Local 1638, AFL-CIO-CLC. Administrative Law Judge Eric M. Fine issued his decision November 21, 2008. Chairman Liebman and Members Schaumber and Hayes participated.

New Country Audi Inc. (34-CA-12563, 34-RC-2320; 355 NLRB No. 116) Greenwich, CT, August 24, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted without comment the Regional Director's recommendation to overrule, without a hearing, the Employer's objections that the election should be set aside because (1) the Union's comments to eligible voters of government bias in favor of the Union created an environment rendering a free and fair election impossible; (2) an employee's surveillance and reporting to the Union's observer, during the polling period, equated to objectionable conduct; and (3) Union representatives' threat to be stationed in the Employer's parking lot, and in full view of the voting area, throughout the course of the election period was objectionable conduct. The Board adopted the Regional Director's findings and recommendations, and found that a certification of representative should be issued.

Charge filed by and petitioner – International Association of Machinists & Aerospace Workers, AFL-CIO, District Lodge 26. Chairman Liebman and Members Schaumber and Hayes participated.

New Process Steel, LP (25-CA-30470; 355 NLRB No. 108) Butler, Indiana, August 23, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board found that the Employer, New Process Steel, violated the Act by repudiating the parties' binding collective-bargaining agreement. The Employer claimed that the Union did not ratify the contract by a majority vote of unit employees. The Board found that the contract was properly ratified. The Board ordered the Employer to restore and give effect to the contract retroactive to August 12, 2007, and to make whole all employees who suffered any loss of earnings or benefits resulting from the Employer's actions.

Charges were filed by International Association of Machinists and Aerospace Workers, AFL-CIO. Administrative Law Judge David I. Goldman issued his decision on May 1, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

New Process Steel, LP (25-CA-30632; 355 NLRB No. 97) Butler, Indiana, August 23, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board granted the General Counsel's Motion for Summary Judgment, finding that the Respondent violated the Act by withdrawing recognition from the Union during the effective term of a binding collective-bargaining agreement. The Board accordingly denied the Respondent's Cross-motion for Summary Judgment.

Charge filed by International Association of Machinists and Aerospace Workers, AFL-CIO. Chairman Liebman and Members Schaumber and Pearce participated.

New York Presbyterian Hospital (2-CA-38512; 355 NLRB 126) New York, NY, August 26, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board found that the Respondent violated the Act by refusing to furnish the Union with requested information about nurse practitioners working at the Respondent's facility, including both bargaining unit nurse practitioners represented by the Union and non-unit nurse practitioners on the payroll of Columbia University. The Board noted that the non-unit information was sufficiently relevant to the processing of a grievance. In addition, the Board specifically found that the Respondent unlawfully refused to provide the Union with all documents between the employer and Columbia University concerning the employment of nurse practitioners.

Charge was filed by New York State Nurses Association. Administrative Law Judge Raymond P. Green issued his decision December 8, 2008. Chairman Liebman and Members Schaumber and Hayes participated.

PDK Investments, LLC (16-CA-26292; 355 NLRB No. 115) Balch Springs, TX, August 24, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's finding that the Respondent violated the Act by refusing to provide the Union with requested information. The Union sought the information in order to determine if the Respondent was unlawfully diverting work from the bargaining unit. The Board agreed that the Union adequately established the relevance of the request.

Charge filed by International Brotherhood of Electrical Workers, Local Union 20. Administrative Law Judge Michael A. Marcionese issued his decision on December 29, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

Regency Grande Nursing & Rehabilitation Center (22-CA-26231-S, 355 NLRB No. 99) Dover, NJ, August 23, 2010. [[HTML](#)] [[PDF](#)]

This is a compliance case involving reimbursement to employees for dues and fees that were collected under a collective bargaining agreement that the Board earlier found was entered into unlawfully, because at the time the union did not represent a majority of the employees. The union in this case is Local 300S, Production Service & Sales District Council a/w United Food and Commercial Workers International Union. The Board had ordered the employer to reimburse present and former employees, except those who voluntarily joined Local 300S before the unlawful agreement was entered into on Jan. 8, 2004. In this decision, the Board adopted, with minor corrections, the administrative law judge's finding that the amount owed was \$74,852.71, plus interest.

Charge filed by SEIU 1199 New Jersey Healthcare Union. Adm. Law Judge Mindy E. Landow issued her supplemental decision May 28, 2009. Chairman Liebman and Members Schaumber and Becker participated.

Regency Grande Nursing and Rehabilitation Center (22-CA-28331, et al., 22-RC-12889, et al.; 355 NLRB No. 109) Dover, NJ, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted, with minor modifications to the rationales, the administrative law judge's findings that the Respondent violated the Act by discharging an employee because of her union activity, by interrogating an employee about why she met with a union organizer in the home of another employee, creating the impression of surveillance by this same question, and interrogating an employee as to how she voted in the representation election. The Board also found that the judge properly overruled objections to the election and sustained all but six challenges, a non-determinative number, and issued a certification of representative. Finally, the Board adopted, with bolstering, the judge's recommended broad cease and desist order.

Charges filed by SEIU 1199 New Jersey Health Care Union and Local 399s, Production Services and Sales District Council, United Food and Commercial Workers International Union.. Administrative Law Judge Michael A. Rosas issued his decision February 13, 2009. Chairman Liebman and Members Schaumber and Becker participated.

Regency Heritage Nursing and Rehabilitation Center (22-CA-27992; 355 NLRB No. 103)
Ewing, NJ, August 25, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's findings that the employer violated the Act by refusing to deal with a nonemployee union representative, and that the matter was not deferrable to arbitration. The Board also reversed the judge's finding that the employer violated the Act by unilaterally terminating an established past practice of granting nonemployee union representatives access to the employer's facility. The Board found that the General Counsel failed to meet his burden to show that the employer was aware that nonemployee union representatives had been visiting the facility.

Charge filed by SEIU 1199, New Jersey Health Care Union. Administrative Law Judge Mindy E. Landow issued her decision November 3, 2008. Chairman Liebman and Members Schaumber and Hayes participated.

Rochelle Waste Disposal, LLC (33-CA-15298, 15765, 33-RC-5002; 355 NLRB No. 100)
Rochelle, IL, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's finding that the Respondent violated the Act by discharging an employee because he supported the Union's organizing efforts and because he testified in a Board representation proceeding. The Board also certified the Union as the exclusive bargaining representative of the employees.

Charges filed by International Union of Operating Engineers, Local 150, AFL-CIO. Administrative Law Judge George Carson II issued his decision June 27, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

Spectrum Health—Kent Community Campus (7-CA-50996, 51112; 355 NLRB No. 101) Grand Rapids, MI, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board found that the Employer, Spectrum Health—Kent Community Campus, violated the Act by unlawfully withdrawing recognition from the Union, repudiating the collective-bargaining agreement, unilaterally making changes to the contract's terms, and informing employees that the facility was nonunion. The dispute arose over the parties' differing interpretation of the contract's effective date and expiration date. The Board ordered the Employer to recognize the union as the exclusive bargaining representative, give effect to the contract's terms, and rescind any unilateral changes.

Charges filed by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, and its Local 2600. Administrative Law Judge David I. Goldman issued his decision September 4, 2008. Chairman Liebman and Members Schaumber and Hayes participated.

Teamsters Local No. 886, affiliated with International Brotherhood of Teamsters (United Parcel Service) (17-CB-6356; 355 NLRB No. 105) Oklahoma City, OK, August 23, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board reversed the administrative law judge's finding that the Respondent union did not violate the Act when one of its stewards told employee Reynolds, in the presence of employee Hawkins, that it dropped Reynolds' grievances because the company did not like him and because he ran against the Respondent's leadership in an intraunion election. The Board found that an employee in Hawkins' position reasonably could have believed that the steward was acting on behalf of the Respondent and, therefore, that the Respondent was responsible for the steward's statement by virtue of his apparent authority.

Charge filed by an individual. Administrative Law Judge James M. Kennedy issued his decision December 17, 2008. Chairman Liebman and Members Schaumber and Becker participated.

Trump Marina Casino Resort (4-CA-36528; 355 NLRB No. 107) Atlantic City, NJ, August 23, 2010. [\[HTML\]](#) [\[PDF\]](#) (***Trump Marina Associates, LLC d/b/a Trump Marina Casino Resort***)

The Board adopted the administrative law judge's finding that the Respondent violated the Act by maintaining and enforcing unlawfully broad rules prohibiting employees from releasing statements to the news media without prior approval, and authorizing only certain representatives to speak with the media. The Board also adopted the judge's finding that the Respondent violated the Act by interrogating an employee about whether he had spoken to the media about a prior decision in a Board case involving the Respondent.

Charge filed by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW. Administrative Law Judge Robert A. Giannasi issued his decision August 27, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

United Brotherhood of Carpenters Local 43 and New England Regional Council of Carpenters (McDowell Building & Foundation, Inc.) (34-CB-3047; 355 NLRB No. 132) Boston, MA, August 26, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board agreed with the administrative law judge that the Unions violated the Act by: (1) maintaining in their collective-bargaining agreements an unlawful provision known as the "mobility clause;" (2) invoking the unlawful mobility clause to request that the employer terminate an employee; and (3) invoking the unlawful mobility clause to coerce the employee to leave his employment with his employer. The Unions did not appeal the judge's finding that they violated the Act by maintaining in their collective-bargaining agreements an unlawful union-security provision.

Charge was filed by an individual. Administrative Law Judge Wallace H. Nations issued his decision July 7, 2009. Chairman Liebman and Members Schaumber and Becker participated.

Windstream Corporation (6-CA-35483; 355 NLRB No. 119) Meadville, PA, August 24, 2010. [[HTML](#)] [[PDF](#)]

The Board affirmed the administrative law judge's findings, to which no party excepted, that the Respondent violated the Act by maintaining a policy prohibiting employees from discussing their pay, benefits, and personnel records or information with others. The Board granted the General Counsel and Charging Party's exceptions to the judge's failure to require the Respondent to post the Board's standard remedial notice, and the Board modified the Order accordingly. The Board also ordered the Respondent to post the notice on its intranet and transmit it to employees via e-mail, consistent with the Board's adoption of the judge's finding in *Windstream Corp.*, 355 NLRB No. 74 (2010), that the Respondent regularly communicates its employment policies to employees through e-mail.

Member Schaumber agreed to the Order based on the particular circumstances of this case, noting the absence of exceptions to the judge's finding in the earlier *Windstream* case discussed above or to the judge's instruction in the instant case that the Respondent communicate its rule modification to employees electronically.

Charges filed by Electrical Workers IBEW on behalf of its affiliated Locals 463, 1189, 1507, 1929, 2089, and 2374. Administrative Law Judge Wallace H. Nations issued his decision August 9, 2007. Chairman Liebman and Members Schaumber and Becker participated.

Aloft Chicago O'Hare (13-CA-45561, 13-RC-21849; 355 NLRB No. 117) Rosemont, IL, August 24, 2010. [[HTML](#)] [[PDF](#)] (*Aimbridge Employee Service Corporation d/b/a Aloft Chicago O'Hare*)

The Board granted the Acting General Counsel's motion for summary judgment based on a refusal-to-bargain in which the Respondent contested the Union's certification as bargaining representative in the underlying representation proceeding. Charge filed by and petitioner – UNITE HERE Local 450. Chairman Liebman and Members Schaumber and Hayes participated.

Capital Iron Works Company (17-CA-24499; 355 NLRB No. 138) Topeka, KS, August 26, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for default judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by Boilermakers Local Lodge 83, affiliated with International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO. Chairman Liebman and Members Schaumber and Hayes participated.

Compass Group North America and its subsidiaries Morrison Management Specialists and Morrison Senior Dining (7-CA-51876; 355 NLRB No. 137) Charlotte, NC and Dearborn, MI, August 26, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for default judgment based on the Respondent's failure to comply with terms of the settlement agreement by failing to furnish the

Union with requested information, pay the agreed-upon interest payment, and post an appropriate notice. Charge filed by American Federation of State, County and Municipal Employees, AFL-CIO, and its Local 2568. Chairman Liebman and Members Schaumber and Hayes participated.

Compucom Systems, Inc. (22-CA-28969, 22-RC-12925; 355 NLRB No. 112) East Hanover and Florham Park, NJ, and Suffern, NY, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for summary judgment based on a refusal-to-bargain in which the Respondent contested the Union's certification as bargaining representative in the underlying representation proceeding. Charge filed by and petitioner – Communication Workers of America, Local 1032. Chairman Liebman and Members Schaumber and Pearce participated.

Eagle Ray Electric Company (14-CA-29685, 14-RC-12739; 355 NLRB No. 111) Ellisville, MO, August 23, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for summary judgment based on a refusal-to-bargain in which the Respondent contested the Union's certification as bargaining representative in the underlying representation proceeding. Charge filed by and petitioner – International Brotherhood of Electrical Workers, Local 1, AFL-CIO. Chairman Liebman and Members Schaumber and Pearce participated.

Fred Meyers Stores, Inc. (19-CA-32171; 355 NLRB No. 130) Tacoma, WA, August 26, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for summary judgment based on the Respondent's admitting its refusal-to-bargain, but contests the validity of the Union's certification. Charge filed by United Food and Commercial Workers Local 367, affiliated with United Food and Commercial Workers International Union. Chairman Liebman and Members Schaumber and Becker participated.

Greensburg Manufacturing, LLC (25-CA-30467; 355 NLRB No. 139) Greenberg, IN, August 26, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for default judgment on the grounds that the Respondent answered and admitted to all the allegations in the compliance specification. Charge filed by International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, UAW. Chairman Liebman and Members Schaumber and Hayes participated.

Mercedes-Benz of Orlando (12-CA-26377, 12-RC-9344; 355 NLRB No. 113) Maitland, FL, August 23, 2010. [[HTML](#)] [[PDF](#)] (***Contemporary Cars, Inc. d/b/a Mercedes-Benz of Orlando***)

The Board granted the Acting General Counsel's motion for summary judgment based on a refusal-to-bargain in which the Respondent contested the Union's certification as bargaining representative in the underlying representation proceeding. Charges filed by International Association of Machinists and Aerospace Workers, AFL-CIO. Chairman Liebman and Members Schaumber and Pearce participated.

Transportation Solutions, Inc. (6-CA-36628); 355 NLRB No. 142) Pittsburgh, PA, August 26, 2010. [[HTML](#)] [[PDF](#)]

The Board granted the Acting General Counsel's motion for summary judgment based on the Respondent's failure to file an adequate and timely answer to the complaint. Charge filed by General Teamsters, Chauffeurs and Helpers Local 249 a/w International Brotherhood of Teamsters. Chairman Liebman and Members Schaumber and Hayes participated.

Unpublished Board Decisions in Representation Cases

E.B. Eames Co., Inc. (27-RM-683) Logan, UT, August 24, 2010. Order denying request for review and order affirming Regional Director. Petitioner – Carpenters' District Council of Kansas City & Vicinity. Chairman Liebman and Members Schaumber and Hayes participated.

E.B. Eames Co., Inc. (21-RM-2675) Utah, UT, August 24, 2010. Order denying request for review and order affirming Regional Director. Petitioner – Southwest Regional Council of Carpenters. Chairman Liebman and Members Schaumber and Hayes participated.

E.B. Eames Co., Inc. (20-RM-2869) San Francisco, CA, August 24, 2010. Order denying request for review and order affirming Regional Director. Petitioner – Carpenters 46 Northern California Counties Conference Board. Chairman Liebman and Members Schaumber and Hayes participated.

E.B. Eames Co., Inc. (19-RM-2245) Kent, WA, August 24, 2010. Order denying request for review and order affirming Regional Director. Petitioner – Northwest Regional Council of Carpenters. Chairman Liebman and Members Schaumber and Hayes participated.

E.B. Eames Co., Inc. (28-RM-617) Las Vegas, NV, August 24, 2010. Order denying request for review and order affirming Regional Director. Petitioner – Southwest Regional Council of Carpenters. Chairman Liebman and Members Schaumber and Hayes participated.

G.E. Johnson Construction Company, Inc. (27-RC-8596) Colorado Springs, CO, August 25, 2010. No exceptions having been filed to the Hearing Officer's report recommending disposition of objections for an election held June 8-9, 2010, the Board adopted the Hearing Officer's findings and recommendations, and found that a certification of results of election should be issued. Petitioner – Carpenters District Council of Kansas and Vicinity.

Group Health Cooperative (19-RC-15283) Coeur D’Alene, ID and Spokane, WA, August 24, 2010. No exceptions having been filed to the Hearing Officer’s report recommending disposition of objections for an election held March 31, 2010, the Board adopted the Hearing Officer’s findings and recommendations, and ordered that the election be set aside and that a re-run election should be conducted.

J & D Transportation (22-RC-13090) Neptune, NJ, August 25, 2010. No exceptions having been filed to the Administrative Law Judge’s report recommending disposition of objections to an election held May 4, 2010, the Board adopted the Administrative Law Judge’s findings and recommendations, and found that a certification of representative should be issued. Petitioner – Teamsters Local Union 469, affiliated with International Brotherhood of Teamsters.

R.D. Herbert & Sons Company (26-RC-8609) Nashville, TN, August 25, 2010. No exceptions having been filed to the Regional Director’s report recommending disposition of objections for an election held May 14, 2010, the Board adopted the Regional Director’s findings and recommendations, and found that a certification of results of election should be issued. Petitioner – Sheet Metal Workers Local 177 AFL-CIO.

Decisions of Administrative Law Judges

Embarq Corporation, a wholly-owned subsidiary of Centurytel, Inc. d/b/a Centrylink (28-CA-22804, et al.; JD(ATL)-18-10) Las Vegas, NV. Charges filed by International Brotherhood of Electrical Workers Local Union 396, AFL-CIO. Administrative Law Judge George Carson II issued his decision August 24, 2010. [[HTML](#)] [[PDF](#)]

Titus, LLC (5-CA-35081, 5-CB-10607; JD-50-10) Springfield, VA, August 26, 2010. Charges filed by an Individual. Administrative Law Judge Eric M. Fine issued his decision August 26, 2010. [[HTML](#)] [[PDF](#)]